

## **FELONY OFFENSES**

### **House Substitute for Senate Bill 67 - Felony**

House Substitute for Senate Bill 67 amends the crimes of mistreatment of a dependent adult, identity theft and identity fraud, and criminal possession of a firearm.

#### **Mistreatment of a Dependent Adult**

- K.S.A. 21-3437(a)(1) makes the knowing and intentional infliction of physical injury, unreasonable confinement, or unreasonable punishment upon a dependent adult a severity level 5, person felony;
- Deletes the requirement that taking unfair advantage of a dependent adult's physical or financial resources be committed by a caretaker or another person, and would make a violation of this subsection:
  - K.S.A. 21-3437(a)(2), severity level 2, person felony if the aggregate amount of the value of the resources is \$1,000,000 or more;
  - K.S.A. 21-3437(a)(2), severity level 3, person felony if the aggregate amount of the value of the resources is at least \$250,000 but less than \$1,000,000;
  - K.S.A. 21-3437(a)(2), severity level 4, person felony if the aggregate amount of the value of the resources is at least \$100,000 but less than \$250,000;
  - K.S.A. 21-3437(a)(2), severity level 5, person felony if the aggregate amount of the value of the resources is at least \$25,000 but less than \$100,000; and
  - K.S.A. 21-3437(a)(2), severity level 7, person felony if the aggregate amount of the value of the resources is at least \$1,000 but less than \$25,000.
- K.S.A. 21-3437(a)(3), makes the omission or deprivation of treatment, goods, or services that are necessary to maintain physical or mental health of a dependent adult a severity level 8, person felony and delete the requirement that the crime be committed by a caretaker or another person.

#### **Identity Theft and Identity Fraud**

The bill would:

- K.S.A. 21-4018(a) amends the crime of identity theft to clarify that the crime is committed by obtaining, possessing, transferring, using, selling, or purchasing any personal identifying information belonging to or issued to another person, with the intent to defraud that person, or anyone else, in order to receive a benefit. The penalty for the crime did not change;
- K.S.A. 21-4018(b) amends the crime of identity fraud to clarify that the crime is committed by either:
  - Using or supplying information the person knows to be false in order to obtain a document containing any personal identifying information; or
  - Altering, amending, counterfeiting, making, manufacturing, or otherwise replicating any document containing personal identifying information with the intent to deceive;
  - The penalty for the crime did not change;
- Clarify that it is not a defense that the person did not know the personal identifying information belonged to another person, living or deceased; and
- Provide a definition for personal identifying information.

#### **Criminal Possession of a Firearm (formerly 2010 SB 411)**

The bill amends K.S.A. 21-4204(a)(4), the crime of criminal possession of a firearm by a person who has been convicted within the previous ten years of certain violent crimes or certain felony drug crimes. The bill adds unlawful manufacture of controlled substances, unlawfully arranging a drug transaction using a communication device, and possession of chemicals with the intent to manufacture methamphetamine to the list of drug crimes covered by the crime of criminal possession of a firearm.

The bill also adds attempt, conspiracy, or solicitation to commit any of the specified felonies to the ten year prohibition from possessing firearms.

Criminal Possession of firearm is a severity level 8, nonperson felony.

The bill became effective April 15, 2010.

### **Substitute for Senate Bill 353 - Felony**

Substitute for Senate Bill 353 renames the existing crimes of trafficking and aggravated trafficking to make it human trafficking and aggravated human trafficking, and makes corresponding changes in all statutes referencing these crimes. The bill does the following:

- Expands the crime of human trafficking to add coercing employment and peonage (involuntary servitude) as two additional ways to commit the crime;
- Clarifies that the use of the labor of any person incarcerated in a state or county correctional facility or city jail is not considered human trafficking;
- K.S.A. 21-3446, Human trafficking remains a severity level 2, person felony;
- K.S.A. 21-3447, Aggravated human trafficking remains a severity level 1, person felony; and
- K.S.A. 21-3447(a)(1)(A), Aggravated human trafficking when the offender is 18 years and the victim is less than 14 years of age aggravated trafficking is an off-grid person felony.

The bill amends K.S.A. 60-4104 by adding human trafficking and aggravated human trafficking to the list of crimes that are subject to forfeiture *i.e.*, seizure of the property and the proceeds of the illegal activity.

The bill shall be effective July 1, 2010.

### **Senate Bill 434 – Felony**

Senate Bill 434 amends current law regarding unlawful sexual relations, trafficking contraband into a correctional institution or care and treatment facility, the Kansas Offender Registration Act, parole board hearings, and a special rule in sentencing regarding residential burglary.

#### **Unlawful Sexual Relations**

The bill amends the penalty for K.S.A. 21-3520(a), unlawful sexual relations from a severity level 10, person felony to a severity level 5, person felony, except for subsection (a)(5), when the offender is an employee of the Juvenile Justice Authority or an employee of a contractor who provides services in a juvenile correctional facility and the person with whom the offender is engaging in the unlawful sexual relations is a person under 16 years of age or older who is confined by lawful custody to such facility. Such violation is a severity level 4, person felony.

The bill creates a special rule, K.S.A. 21-4704(r), establishing a presumptive imprisonment sentence for the crime of unlawful sexual relations. Such sentence shall not be considered a departure and is not subject to appeal.

#### **Special Rule Regarding Burglary (Formerly HB 2582)**

The bill amends the special rule K.S.A. 21-4704(p), requiring presumptive imprisonment for an offender convicted of a residential burglary or an attempt or conspiracy to commit residential burglary, when such offender has a prior conviction for a residential or nonresidential building burglary, aggravated burglary, or an attempt or conspiracy to commit a residential or nonresidential building burglary or an aggravated burglary.

The special rule in sentencing regarding burglary becomes effective July 1, 2011.

#### **Traffic in Contraband in a Correctional Institution or Care and Treatment Facility**

The bill amends K.S.A. 21-3826(b)(3), trafficking contraband into a correctional institution or care and treatment facility by increasing the level of severity of crime to a severity level 4, nonperson felony if the

contraband are firearms, ammunition, or explosives introduced or attempted to be introduced by an employee of the correctional institution or care and treatment facility.

The bill clarifies K.S.A. 21-3826(b), trafficking in contraband in a correctional institution or care and treatment facility is a severity level 5, nonperson felony if such items are firearms, ammunition, explosives, controlled substances introduced by nonemployee.

All other violations of K.S.A. 21-3826, trafficking in contraband are a severity level 6, nonperson felony.

#### Kansas Offender Registration Act

The bill amends K.S.A. 22-4902, Kansas Registration Act to add the crime of unlawful sexual relations to the list of crimes that require registration under the Act.

#### Parole Board Hearings (Formerly HB 2508)

The bill requires the Kansas Parole Board to review inmates sentenced for a class A or class B felony who have not had a parole board hearing in the five years prior to July 1, 2010 if the review can be done within the agency's existing resources or with the funding subject to appropriation. The review by the Kansas Parole Board is required to be conducted on or before July 1, 2012.

The bill shall be effective July 1, 2010.

### **House Substitute for Senate Bill 458 – Felony**

House Substitute for Senate Bill 458 amends penalties under K.S.A. 17-12a508, Kansas Uniform Securities Act.

The bill makes an intentional securities violation pursuant to K.S.A. 17-12a501 (securities fraud) or 17-12a502 (investment adviser fraud) a felony, as follows:

- An intentional violation of \$1,000,000 or more is amended from severity level 4 to severity level 2, nonperson felony;
- An intentional violation of at least \$250,000 but less than \$1,000,000 is amended from severity level 4 to severity level 3, nonperson felony;
- An intentional violation of at least \$100,000 but less than \$250,000 is a severity level 4, nonperson felony;
- An intentional violation of at least \$25,000 but less than \$100,000 is a severity level 5, nonperson felony;
- An intentional violation of less than \$25,000 is amended from severity level 7 to severity level 6, nonperson felony;
- An intentional violation of cease and desist order is amended from severity level 8 to severity level 5, nonperson felony;
- An intentional violation of K.S.A. 17-12a401, 17-12a403, or 17-12a506 is amended from severity level 8 to severity level 6, nonperson felony; and
- An intentional violation of K.S.A. 17-12a402 or 17-12a403 is amended from severity level 8 to severity level 7, nonperson felony.

The bill shall be effective July 1, 2010.

### **Senate Bill 497 – Felony**

Senate Bill 497 amends K.S.A. 21-4201 by adding clarifying language to existing law by explicitly exempting the lawful selling, manufacturing, purchasing, possessing, or carrying of certain ordinary pocket knives from prosecution under the criminal weapons use statutes. The pocket knives covered under the change are those having a spring, detent, or other device which creates a bias toward closure of the blade.

Additionally, the bill requires that the exempted knives use hand pressure applied to a button on the blade of the knife to overcome the bias towards closure to assist in the opening of the knife.  
The bill shall be effective April 8, 2010.

### **House Bill 2435 – Felony**

House Bill 2435 amends several criminal and sentencing statutes.

#### **Attempt, Conspiracy, or Criminal Solicitation (House Bill 2435, as introduced)**

- The bill increases the penalty from severity level 1, 2, or 3 to off-grid for an attempt (currently severity level 1, according to *State v. Horn*), conspiracy (currently severity level 2, according to *State v. Horn*), or solicitation (currently severity level 3, according to *State v. Horn*) of a sex crime when the offender is 18 or older and the victim is younger than 14 years of age, for the following crimes:
  - K.S.A. 21-3447, Aggravated trafficking, if victim is less than 14, offender is 18 or older;
  - K.S.A. 21-3502(a)(2), Rape, if victim is less than 14, offender is 18 or older;
  - K.S.A. 21-3504(a)(3), Aggravated indecent liberties, if victim is less than 14, offender is 18 or older;
  - K.S.A. 21-3506(a)(1) or (a)(2), Aggravated criminal sodomy, if victim is less than 14, offender is 18 or older;
  - K.S.A. 21-3513, Promoting prostitution, if victim is less than 14, offender is 18 or older; and
  - K.S.A. 21-3516(a)(5) or (a)(6), Sexual exploitation of a child, if victim is less than 14, offender is 18 or older.
- The bill clarifies that a downward durational departure from a mandatory minimum sentence of 25 years for certain sex offenses be limited. A judge is not authorized to impose a downward durational departure for any crime of extreme sexual violence to less than 50 percent of the center of the range of the sentence for such crime.
- The bill also amends K.S.A. 21-3449 on terrorism and K.S.A. 21-3450 illegal use of weapons of mass destruction to provide that an attempt, conspiracy, or criminal solicitation to commit the crime be an off-grid felony.

#### **Aggravated Habitual Sex Offender (House Bill 2435 as introduced)**

The bill amends K.S.A. 21-4642 by deleting the definition of “prior conviction event” the aggravated habitual sex offender statute to clarify that any person convicted of two or more sexually violent crimes, regardless of whether the convictions occur on the same day, is a habitual sex offender subject to a mandatory life sentence without the possibility of parole.

#### **Aggravated Endangering a Child (Modified from Senate Bill 399)**

The bill creates a special rule and amends current law K.S.A. 21-3608a to require the sentence for violation of aggravated endangering a child, a nondrug severity 9, person felony to be served consecutively to any other term or terms of imprisonment imposed by the court. The bill clarifies the sentence is not a departure and is not subject to appeal.

#### **Sentence Enhancement of Certain Drug Crimes (Modified from SB 399)**

- Amends K.S.A. 21-3608a, a definition of “minor” to mean a person under 18 years of age;
- Makes the crime of cultivation, distribution, or possession with intent to distribute certain drugs a drug severity level 2 felony, if the trier of fact finds that the offender is 18 years of age or more and the drug was distributed or possessed with the intent to distribute to a minor, or on or within 1,000 feet of any school property;
- Makes the knowing distribution or possession with the intent to distribute any drug paraphernalia used for a violation of K.S.A. 21-36a06(b) (certain depressant drugs, stimulant drugs, and hallucinogenic drugs; any material, compound, mixture, or preparation which contains any quantity of certain substances, their optical isomers, salts, or salts of isomers; and anabolic steroids) a severity level 9, nonperson felony if the trier of fact finds that the offender is 18 years of age or more and the drug

paraphernalia was distributed or caused to be distributed to a minor or within 1,000 feet of any school property; and

- Makes the distribution, possession with the intent to distribute, or manufacture with the intent to distribute any stimulated controlled substances a severity level 7, nonperson felony if the trier of fact finds that the offender is 18 years of age or more and the violation occurred on or within 1,000 feet of any school property.

Sentence Enhancement for Ballistic Resistant Material (House Bill 2454 as introduced)

The bill creates a special rule in sentencing to add 30 months imprisonment to the sentence of any defendant convicted of a felony when the trier of fact finds beyond a reasonable doubt that the defendant wore or used ballistic resistant material during the commission of, attempt to commit, or flight from such felony. The sentence shall be presumptive prison and shall be served consecutively to any other sentence imposed.

The bill shall be effective April 29, 2010.

**MISDEMEANOR OFFENSES**

**House Substitute for Senate Bill 83 - Other**

House Substitute for Senate Bill 83 creates the Naturopathic Doctors Licensure Act and amends K.S.A. 65-7211 by changing the regulatory status of naturopathic doctors and amending the Physical Therapy Practice Act by creating two new licensure categories, “exempt license” and “federally active license”.

Violation of the Naturopathic Doctors Licensure Act remains a class B misdemeanor.

The bill shall be effective July 1, 2010.

**Senate Bill 531 – Misdemeanor**

Senate Bill 531 amends K.S.A. 48-1625 and creates the Radon Certificate Law which requires certification of radon measurement technicians, radon mitigation technicians, and radon measurement laboratories by the Secretary of the Kansas Department of Health and Environment. The bill requires the Secretary to create rules and regulations for the establishment of a radon certification program by July 1, 2011.

Violation of the Radon Certificate Law or any rules and regulations is a class B misdemeanor.

The bill shall be effective July 1, 2010.

**House Bill 2577 - Misdemeanor**

House Bill 2577 creates the Addictions Counselor Licensure Act. The bill prohibits any person currently licensed as an addiction counselor, or substance abuse counselor from practicing without being licensed under this Act and meeting applicable requirements effective August 1, 2011. However, the act does provide for a grandfathering of anyone registered by the Board.

House Bill 2577 subsection (a) and of section three prohibits any person from engaging in the practice of addiction counseling or represent that such person is a licensed addiction counselor without having first obtained a license under the addiction counselor act. Violation of the Addictions Counselor Licensure Act is a class B misdemeanor.

House Bill 2577 subsection (b) of section three prohibits any person from engaging in the practice of addiction counseling as a clinical addiction counselor or represent that such person is a licensed clinical addiction counselor without having first obtain a license. Violation of the Addictions Counselor act is a class B misdemeanor.

This bill shall be effective July 1, 2010.

## **OTHER**

### **House Substitute for Senate Bill 300**

House Substitute for Senate Bill 300 prohibits a person who is operating a vehicle on a public road or highway from “texting” using a wireless communications device to write, send or read a written communication. The bill defines “wireless communications device” to include voice-operated devices. The fine for unlawful text messaging is \$60.

The bill includes the following exceptions to the ban:

- Law enforcement officers or emergency services personnel acting within the course or scope of their employment;
- When the vehicle is stopped off the regular traveled portion of the roadway;
- Using the wireless communications device to make or receive a call; receive an emergency, traffic, or weather alert message related to the operation or navigation of the vehicle;
- To prevent imminent injury to a person or property; and
- To relay information between a transit or for-hire operator and the operator’s dispatcher, if the device is permanently affixed to the motor vehicle.

Law enforcement officers shall issue a warning citation for this violation until January 1, 2011.

This bill shall be effective upon publication in the Kansas Register.

### **Senate Bill 346 – Other**

Senate Bill 346 amends K.S.A. 75-5220, which grants the Secretary of Corrections four, rather than three, business days to notify the sheriff to immediately convey the offender in his or her custody to the Department of Corrections Reception and Diagnostic Unit. The bill would require the Secretary to be responsible for all medical care and treatment costs of the offender while in the actual physical custody of the Secretary.

The bill also grants the Secretary the discretion to discharge the offender from the prison portion of the sentence if the offender has ten days or less remaining to be served at the time the Secretary receives the notice of the Order for Commitment.

Finally, the bill requires the court to forward a copy of the complaints, affidavits, and the county and district attorney reports to the officer having custody of the offender for delivery when the offender is transferred to a correctional institution.

The bill shall be effective July 1, 2010.

### **Senate Bill 368 – Other**

Senate Bill 368 amends the effective date of the criminal penalty provisions regarding third and fourth or subsequent convictions for driving under the influence (DUI) that were enacted with the passage of 2009 House Bill 2096 from July 1, 2010 to July 1, 2011.

The bill also amends the administrative penalty provisions for a second alcohol or drug related conviction to require a one-year suspension of the offender's driving privileges, which may be modified after a 45-day hard suspension and application to the Kansas Division of Motor Vehicles. The offender's driving privileges shall be restricted the remainder of one year to driving only a vehicle equipped with an ignition interlock device, and restricted to driving to and from work, school, treatment, or to the ignition interlock provider. The person's driving privileges shall be further restricted for an additional year to driving only a vehicle equipped with an ignition interlock device.

Administrative penalties for a third, fourth or subsequent DUI, test failure or test refusal conviction shall be as provided under current law.

The bill shall be effective upon publication in the Kansas Register.

### **House Substitute for Senate Bill 381 – Other**

House Substitute for Senate Bill 381 amends K.S.A. 21-3211 through K.S.A. 21-3218, Principal of Criminal Liability, justified threat or use of force. The bill does the following:

- Specifies that the bill is retroactive;
- Adds a new definitions section in which "use of force" is defined to include threats;
- Clarifies that a person who threatens deadly force, which is also defined in the new definitions section, is subject to the statutory provision governing "use of force" rather than use of deadly force;
- Adds "place of work" to the list of places where a person can use deadly force to prevent or terminate an unlawful entry or attack, if such person reasonably believes it is necessary to prevent imminent death or great bodily harm;
- Clarifies that a person would not be required to retreat when using force to protect a place of work; and
- Creates a presumption of reasonableness with regard to the use of deadly force in circumstances described in the bill. Summary

The bill shall be effective April 29, 2010.

### **Senate Bill 519 – Other**

Senate Bill 519 amends the following:

- Allows payment of traffic tickets, K.S.A. 8-2118 and K.S.A. 19-4716 fines for violations of county codes and resolutions by any means accepted by the court;
- K.S.A. 20-365 authorizes that the electronic signature of the Clerk of the District Court has the same legal effect as a manual signature on records and judicial proceedings;
- Authorizes the conveyance of a written statement, K.S.A. 22-2502 or K.S.A. 22-2504 affidavit for a search warrant by electronic communication;
- Amends K.S.A. 28-172 by eliminating the requirement that certain docket fees must be paid by mail or in person;
- Amends K.S.A. 38-2305, the Juvenile Code to authorize an adjudication court to use electronic means to send documents to sentencing court and
- Amends K.S.A. 59-2203, the Probate Code to require the district court to transmit the entire file to the proper county, once proper venue is determined.

The bill shall be effective July 1, 2010.

### **House Bill 2130 – Other**

House Bill 2130 amends state law to require every occupant of a passenger car manufactured with safety belts to wear a safety belt. The bill allows law enforcement to stop a passenger car for a violation of safety belt requirements by anyone in the front seat and by anyone under 18 years of age.

Before House Bill 2130 was enacted, the law did not require adults in the back seat to wear safety belts, and a law enforcement officer could have stopped a vehicle and issued a citation for failure to wear a safety belt only if another law had been violated. The bill continues to require that a citation be issued for failure to wear a safety belt by an adult passenger in the back seat only if another law has been violated. The bill does not change requirements for children under the age of 14 covered under the Child Passenger Safety Act (K.S.A. 8-1343 *et seq.*).

The bill sets the fine for violations of safety belt requirements by adults at \$5 from June 30, 2010, until July 1, 2011, and \$10 starting July 1, 2011; both amounts include court cost. The violation by someone ages 14 through 17, K.S.A. 8-2503(b), continues to be \$60, including court costs.

The bill shall be effective upon publication in the Kansas Register. The bill has been presented to the Governor.

### **Senate Substitute for House Bill 2226 - Other**

Senate Substitute for House Bill 2226 increases the fine assessed on traffic infractions listed on the uniform fine schedule by \$15. The increased funds shall be added to the KDOC Alcohol and Drug Abuse Treatment fund for fourth and subsequent DUI offenders and the Kansas Criminal Justice Information System line fund.

The bill shall be effective July 1, 2010.

### **House Bill 2411 – Other**

House Bill 2411 amends K.S.A. 65-4105, the Kansas Uniform Controlled Substance Act to expand the list of Schedule I controlled substances to include the chemical compounds HU-210, JWH-018, JWH-073, BZP, and TFMPP.

The bill shall be effective March 18, 2010.

### **House Bill 2412 – Other**

House Bill 2412 amends the law on functional incapacitation release and creates a new procedure for the release of a terminally ill inmate whose medical condition is likely to cause death within thirty days.

#### **Functional Incapacitation Release**

The bill removes a person sentenced to imprisonment for an off-grid offense from the group of inmates who could be eligible for an early release pursuant to the functional incapacitation release procedure.

#### **Terminally Ill Early Release**

The process is initiated with an application by the Secretary of Corrections to the Kansas Parole Board for the release of an inmate deemed by a physician to have a terminal medical condition likely to cause death within 30 days.

The bill shall be effective July 1, 2010.



### **House Bill 2468 - Other**

House Bill 2468 amends K.S.A. 22-4906, the Kansas Offender Registration Act to require a person convicted of K.S.A. 21-3301, 21-3302 or 21-3303, attempt, conspiracy or criminal solicitation of certain sex crimes to register for life rather than ten years. Such crimes include:

- K.S.A.. 21-3447, Aggravated human trafficking, if victim is less than 14, offender is 18 or older;
- K.S.A.. 21-3502(a)(2), Rape, if victim is less than 14, offender is 18 or older;
- K.S.A.. 21-3504(a)(3), Aggravated indecent liberties, if victim is less than 14, offender is 18 or older;
- K.S.A.. 21-3506(a)(1) or (a)(2), Aggravated criminal sodomy, if victim is less than 14, offender is 18 or older;
- K.S.A.. 21-3513 Promoting prostitution, if victim is less than 14, offender is 18 or older; and
- K.S.A.. 21-3516(a)(5) or (a)(6), Sexual exploitation of a child, if victim is less than 14, offender is 18 or older.

The bill shall be effective July 1, 2010.

### **House Bill 2469 – Other**

House Bill 2469 amends K.S.A. 21-4710(d)(11) to allow use of prior convictions as criminal history if the conviction(s) enhance a penalty, such as a 45-day jail sentence as a condition of probation in K.S.A. 21-3710(b)(4).

The bill shall be effective April 8, 2010.

### **Senate Substitute for House Bill 2476 - Other**

Senate Substitute for House Bill 2476 increases and extends to June 30, 2011, the Judicial surcharge the Legislature authorized in 2009 Senate Bill 66 to fund nonjudicial personnel. The surcharge is increased from \$10 to \$20 on most court docket fees. Expungement of conviction, expungement of arrest record, marriage license fee, general rule on court procedures, and expungement of juvenile adjudication surcharges are increased more than \$10. The bill also adds a \$100 docket fee for expungement of an adult conviction or a juvenile adjudication.

The bill shall be effective April 15, 2010.

### **Substitute for House Bill 2517 - Other**

Substitute for House Bill 2517 creates a new law to require on July1, 2011, a domestic violence designation in a criminal case by the court if the trier of fact determines that a defendant committed a domestic violence offense. Only if the court finds, on the record , that the defendant has not previously committed a domestic violence offense or participated in a diversion agreement on a complaint alleging a domestic violence offense, and the domestic violence offense was not used to coerce, control, punish, intimidate, or take revenge against a person with whom the offender is involved or has been involved in a dating relationship or against a family or house hold member, would the court be authorized to not place a domestic violence designation on the criminal case or the defendant.

The bill allows, but does not require, a court to place a “DV” designation on the criminal case number uniquely identifying the case.

The Attorney General is required to promulgate rules and regulations, on or before July 1, 2011, to carry out the provision providing for disposition of a criminal case with a domestic violence designation.

The bill provides that the court, at disposition, for any criminal offense with a domestic violence designation, is:

- Required to order the defendant to undergo, and pay for, a domestic violence offender assessment and follow all recommendations, unless otherwise ordered by the court or the Department of Corrections;
- Authorized, but not required, to order a defendant to undergo, and pay for, a domestic violence offender assessment and any other evaluation prior to sentencing if the assessment or evaluation will assist the court in determining an appropriate sentence; and
- Required to provide the domestic violence assessment and any other evaluation to any entity responsible for supervising the defendant.

The bill also does the following:

- Defines domestic violence;
- Defines dating relationship;
- Defines family or household member to exclude siblings from the definition and to add persons who are presently residing together or have resided together in the past;
- Defines domestic violence offense to delete the crime of stalking and a violation of any order issued pursuant to the Protection from the Stalking Act;
- Amends the law requiring all law enforcement agencies to adopt written policies regarding domestic violence call to clarify that the law enforcement officer is required to arrest the person who the officer has probable cause to believe committed a crime or offense involving domestic violence;
- Amends the provision regarding written policies of law enforcement to require the law enforcement to require the law enforcement officer to consider defense of person or property when determining whether to arrest a person for a crime or offense involving domestic violence;
- Adds the appropriate statutory citations for defense of a person or property;
- Clarifies that a law enforcement officer will not be required to arrest any party if no probable cause exists to believe that a crime or offense involving domestic violence has been committed;
- Requires a statement in the written policies to direct a law enforcement officer to evaluate each complaint separately, when two or more parties are alleging domestic violence to determine if probable cause exists that a crime was committed and whether a defense of self defense of person or property exists;
- Amends the crime of domestic battery, on or after July 1, 2011, to prohibit a county or district attorney from entering into a diversion agreement if the complaint alleges a domestic violence offense, and the defendant has participated in two or more diversions on complaints alleging a domestic violence offense in the previous five year period;
- Clarifies that diversion agreements on a complaint alleging a domestic violence offense will require the agreement of the prosecutor, not the court, to relieve the defendant of the requirement to undergo a domestic violence offender assessment and follow all recommendations; or relieve the defendant of the requirement to pay for such assessment, for completion of all recommendations; and
- Requires the Kansas Bureau of Investigation to make available to the Governor's Domestic Violence Fatality Review Board crime record information related to domestic violence. The information will be required to be transmitted in a manner that does not identify individual offenders or victims.

The bill shall be effective July 1, 2011.

#### **House Bill 2581 – Other**

House Bill 2581 amends K.S.A. 21-2610a by increasing the misdemeanor probation supervision fee from \$25 to \$60 and felony probation supervision fee from \$50 to \$120. The reason for the fee increase is to provide funding for the state-wide implementation of and training for use of a risk needs assessment tool, the Level of Services Inventory – Revised (LSI-R) which will be implemented January 1, 2011.

The bill creates a new fund in the state treasury which is called the Correctional Supervision Fund. The additional funds collected from the payment by offenders of the increased correctional service

fees are deposited in the Correctional Supervision Fund. Additionally, the bill amends K.S.A. 20-367, remittance of the docket fees, to clarify that the correctional supervision fees are deposited directly to either the Correctional Supervision Fund or the State General Fund, as specified in K.S.A. 21-4610a, and are not to be commingled with docket fees.

The bill shall be effective July 1, 2010.

#### **House Bill 2604 – Other**

House Bill 2604 amends K.S.A. 21-4603 to authorize a sentencing court to assign defendants convicted of misdemeanors or felonies under provisions of K.S.A. 21-4704 that require imprisonment in the county jail rather than a state correctional facility, to a work release program provided that the defendant return to confinement in the county jail at the end of each day while in the work release program.

The bill clarifies that the authority of a sentencing court to order a defendant to a work release program does not include work release programs at state correctional facilities under control of the Secretary of Corrections as defined in K.S.A. 75-5202.

The bill shall be effective July 1, 2010.

#### **House Bill 2605 - Other**

House Bill 2605 requires the court to order certain fees for forensic science of laboratory services or forensic computer examination services, or a DNA database fee.

##### **Forensic Science or Laboratory Services or Forensic Computer Examination Services**

The bill requires the court to order any adult convicted or diverted, or any juvenile adjudicated or diverted of a misdemeanor, felony, or a violation of a municipal ordinance prohibiting such acts to pay a separate court cost of \$400 for each offense if the forensic science laboratory services or forensic computer examination services are provided in an investigation.

##### **DNA Database Fee**

The bill requires persons convicted or adjudicated of certain offenses that require submission of a DNA sample to pay a separate court cost of \$200 to the KBI DNA database fee for each event of conviction even if the person's DNA sample is already on file.

The bill shall be effective July 1, 2010.

#### **House Bill 2661 - Other**

House Bill 2661, Drug Code Recodification corrects inadvertent errors made in the recodification of the drug code in 2009 HB 2332. The bill:

- Adds a specific reference to subsection (b)(3) of K.S.A. 21-36a06 (possession of marijuana) regarding the law providing municipal court jurisdiction, or concurrent jurisdiction, to hear and determine cases;
- Adds the age 18 of the offender requirement back into the law regarding the crime of distribution of a controlled substance or controlled substance analog;
- Adds language to cover Schedule V controlled substances regarding the crime of possession of a controlled substance or controlled substance analog;
- Conforms the penalty provision regarding prescription-only drug violations;
- Uses terms defined in the recodified drug code and adds the age 18 of the offender requirement back into the law regarding precursor offenses;
- Adds references to the Uniform Controlled Substances Act provisions repealed in recodification and

- makes clear the old law violations and new law violations are treated the same; and
- Clarifies that only those individuals convicted of K.S.A. 21-36a05(a)(1) are required to register under the Kansas Offender Registration Act and makes the provision retroactive to remove the registration requirement for anyone convicted under the other subsections of K.S.A. 21-36a05.

The bill shall be effective April 15, 2010.

#### **House Bill 2668 - Other**

House Bill 2668 recodifies the Kansas Criminal Code in order to do the following:

- Revise the statutory language to add clarity;
- Reorganize the statutes to place them in a more user-friendly order;
- Reorder statutes to reduce their number; and
- Repeal statutory language no longer in use.

This bill shall be effective July 1, 2011.